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October 3, 1996

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EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Implementation of the Local Competition Provisions in the
Telecommunications Act of 1996, CC Docket No. 96-98

Dear Mr. Caton:

In accordance with the Commission's rules governing ex parte presentations, please be advised that today Christine Jines, Paul Walters, Nelson Cain, and the undersigned, representing SBC Communications Inc., met with David Sieradzki, Allen Barna, Sherille Ismail and James Lichford of the Competitive Pricing Division of the Common Carrier Bureau. The purpose of the meeting was to discuss the attached document.

Please stamp and return the provided copy to confirm your receipt. Do not hesitate to contact me should you have any questions.

Sincerely,

Attachment

cc: Mr. David Sieradzki
Mr. Allen Barna
Ms. Sherille Ismail
Mr. James Lichford

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Southwestern Bell Operator Services

Negotiated Agreements vs. Tariffs Issues

October 3, 1996

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SBC Communications Inc.

Wholesale Operator Services - Are gaining more importance

- ◆ Wholesale services have always been an important element of our business. SWBT has provided directory assistance, operator call completion, and directory listing services under contract to numerous independent LECs and directory publishers.
- ◆ SWBT also currently offers DA and operator services to cellular providers and interexchange carriers under federal and state tariffs.
- ◆ The Telecom Act offers opportunities to provide services to new competitive telecommunications providers. Following the FCC's Interconnection Order in Docket No. 96-98, SWBT is now preparing to unbundle operator services and directory assistance to all requesting telecommunications carriers, including IXC's. SWBT will also offer these services for resale. SWBT will provide these services through voluntarily negotiated interconnection agreements.



***Negotiated Agreements* - Are now much more appropriate than tariff arrangements**

- ◆ SWBT plans to offer the same basic terms and conditions via negotiated agreements to any telecommunications carrier requesting operator services. Use of agreements to provide these services, rather than tariffs, is appropriate because:
 - Tariffs are inflexible and don't allow the parties any room to negotiate services; new rate elements require lengthy Part 69 waiver process and tariff revisions;
 - Carriers can no longer simply be categorized as IXC's, or LSP's, or IEC's even CMRS providers; many are hybrids; service requirements vary by customer
 - This approach will provide consistency to all customers; a carrier can obtain all services under contract;
 - Through contracts, SWBT can provide nondiscriminatory access to these services for all customers;



Negotiated Agreements - Are now much more appropriate than tariff arrangements (cont.)

- This approach is consistent with the Act's goal of reduced and simplified regulation;
- Every other competitive provider of operator services can negotiate agreements for operator services;
- The Commission has already agreed that SWBT is clearly a non-dominant provider of operator services to IXC's;
- The Act was intended to pave the way for enhanced competition in *all* telecommunications markets; allowing all providers to enter all markets;
- Tariffs continue to present a regulatory impediment to competition;
- The Commission should ensure that regulatory burdens are lifted as soon as competition eliminates the need for them.



SWBT's Approach - Is consistent with the Commission's view

- ◆ Existing tariff rates would continue to apply for access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services;
- ◆ This approach is consistent with the Commission's first goal of the "competition trilogy" by opening the local exchange and exchange access markets to competition;
- ◆ The Commission believes unbundling operator services facilities and functionalities are important to facilitate competition in the local exchange market. Offering operator services under contract to all carriers would facilitate competition in all markets.
- ◆ The Commission has expanded its definition of operator services beyond TOCSIA, by stating that "our definition of 'operator services' under section 251(b)(3) is applicable to both *interstate* and *intrastate* operator services."



***SWBT's Approach* - Is consistent with the Commission's view (cont.)**

- ◆ The Commission states explicitly that busy line verification, emergency interrupt, and operator-assisted directory assistance are forms of "operator services," because they assist customers in arranging for the billing or completion (or both) of a telephone call. Therefore, LECs must offer them on a nondiscriminatory basis to "all providers of telephone exchange and/or toll service."
 - A "competing provider" is a provider of telephone exchange or telephone toll services that seeks nondiscriminatory access from a local exchange carrier (LEC) in that LEC's service area.
- ◆ SWBT currently offers these services to IXC's under tariff. As a practical matter, when an LSP that is also an IXC requests the same access to these services, SWBT could not distinguish calls that should be subject to the contract terms vs. the tariff.



Legal Considerations - The current structure leads to discrimination.

- ◆ Prior to the Telecom Act, SWBT offered DA and operator services to:
 - independent telephone companies under contract;
 - cellular and interexchange carriers under federal and state tariffs.
- ◆ Now all LECs have the duty to provide nondiscriminatory access to directory assistance services and operator call completion services to LSPs by privately negotiated agreement. This creates a gross inconsistency:
 - tariff terms and rates are set in accordance with Commission rules;
 - contract term and rates are mutually negotiated.
- ◆ Providing services to LSPs under contract and IXC's under tariff results in discrimination between and among carriers in rates, terms and conditions of access, which is clearly prohibited by the Act.
- ◆ The only real solution is to allow LECs to negotiate agreements for these services with all telecommunications carriers.

